

MATERN LAW GROUP, PC
Matthew J. Matern (SBN 159798)
Email: mmatern@maternlawgroup.com
Joshua D. Boxer (SBN 226712)
Email: jboxer@maternlawgroup.com
Clare E. Moran (SBN 340539)
Email: cmoran@maternlawgroup.com
1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
Telephone: (310) 531-1900
Facsimile: (310) 531-1901

Attorneys for Plaintiff JENNIFER PROSTEK
individually and on behalf of others similarly situated
and aggrieved

10 David L. Cheng (SBN 240926)
11 dcheng@fordharrison.com
12 Min K. Kim (SBN 305884)
13 mkim@fordharrison.com
14 FORD & HARRISON LLP
15 350 South Grand Avenue, Suite 2300
Los Angeles, CA 90071
Telephone: (213) 237-2400
Facsimile: (213) 237-2401

16 Attorneys for Defendants,
17 LINCARE INC. and LINCARE PHARMACY
SERVICES INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JENNIFER PROSTEK, an individual, on behalf of herself and on behalf of other persons similarly situated and aggrieved,

CASE NO.: 1:22-CV-01530-JLT-BAM
[Assigned to Hon. Jennifer L. Thurston]

**JOINT STIPULATION FOR
DISMISSAL WITH PREJUDICE**

Complaint Filed: September 7, 2022
Removal Filed: November 28, 2022

LINCARE INC., a Delaware corporation;
LINCARE PHARMACY SERVICES INC., a
Delaware corporation; and DOES 1 through 50,
inclusive,

Defendants

1 **TO THE HONORABLE COURT AND ALL PARTIES OF RECORD:**

2 PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 16 and 41(a) and
3 Local Rule 160, Plaintiff JENNIFER PROSTEK (Plaintiff) and Defendants LINCARE INC. and
4 LINCARE PHARMACY SERVICES INC. (Defendants) (collectively, the “Parties”), by and through
5 their respective and undersigned counsel, hereby stipulate as follows:

6 **WHEREAS**, on September 7, 2022, Plaintiff filed her complaint in the Tulare County Superior
7 Court, Case No. VCU293223, which was removed to the United States District Court for the Eastern
8 District of California on November 28, 2022;

9 **WHEREAS**, on March 21, 2023, the Court ordered Plaintiff’s individual claims to arbitration
10 and stayed her representative PAGA claim;

11 **WHEREAS**, on July 28, 2023, the Ventura County Superior Court granted final approval of the
12 class and PAGA settlement in *Chavez v. Lincare, Inc.*, Case No. 56-2019-00536955-CU-OE-VTA, the
13 settlement covered the entire period Plaintiff was employed, and Plaintiff did not opt out of the
14 settlement. A true and correct copy of the Order Granting Plaintiffs’ Motion for Final Approval of Class
15 Settlement, Class Representative Enhancement Awards, and Attorneys’ Fees and Costs and Final
16 Judgment, entered in the *Chavez* matter, is attached hereto as **Exhibit A** (hereinafter, “*Chavez* Final
17 Approval Order”);

18 **WHEREAS**, the Parties agreed to dismiss Plaintiff’s individual claims in arbitration with
19 prejudice and for a mutual waiver of attorneys’ fees and costs. The Parties have since dismissed
20 Plaintiff’s individual claims with prejudice, and the American Arbitration Association has closed its file
21 in this matter;

22 **WHEREAS**, the Parties have agreed to dismiss any and all claims of Plaintiff with Defendants
23 remaining in this Court, specifically her representative PAGA claim, with a mutual waiver of attorneys’
24 fees and costs;

25 ///

26 ///

27 ///

NOW THEREFORE, subject to approval of the Court, the Parties hereby stipulate and agree that Plaintiff's PAGA claim shall be dismissed without prejudice. Whereas, good cause exists for this Court to dismiss Plaintiff's PAGA claims, as any dismissal that this Court would enter would be without prejudice. Notwithstanding the foregoing, the PAGA release, as described in Paragraph 16 of the *Chavez* Final Approval Order, shall continue to remain in full force and effect.

IT IS SO STIPULATED.

Respectfully submitted,

Date: September 27, 2023

MATERN LAW GROUP, PC

By:

Matthew J. Matern
Joshua D. Boxer
Clare E. Moran
Attorneys for Plaintiff Jennifer Prostek

Respectfully submitted,

Date: September 27, 2023

FORD & HARRISON LLP

By:

David L. Cheng
Min K. Kim
Attorneys for Defendants,
LINCARE INC. and LINCARE PHARMACY
SERVICES INC.

1 **PROPOSED ORDER**

2 The Court, having considered the Parties' stipulated request for dismissal, and for good cause
3 appearing, hereby dismisses Plaintiff's claims with prejudice.

4
5 IT IS SO ORDERED.

6 Dated: October 18, 2023

7 
8 UNITED STATES DISTRICT JUDGE

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28